

**Commercial Activities Panel
Presentation by:
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Good morning, I am here today to represent a group that is often forgotten in this process, the field level practitioners. My qualifications and those of my firm have been provided to you. Three minutes is not enough time to document our observations, so we are providing point papers and a recommended revised supplemental handbook to detail our recommendations. My comments today will be limited to the assumption that the Government wants to compare public and private sector “proposals” for accomplishment of commercial activities in a manner that is **fair and equitable to all parties**.

We, who implement your decisions, have the opinion that the fundamental rules and processes are not broken – they simply need to be focused and enforced. **The process is not inherently difficult – we have made it so.** We need six fundamental tools to fix the process:

(1) The appearance of fairness

The most fundamental fairness issue concerns the treatment of the MEO. Legally, it is not an offeror and does not have access to courts and GAO protests. This is unfair according to the union. Legally, the MEO also does not have a binding contract or agreement and does not have to assume the same responsibilities and risks after implementation. This is unfair according to Industry. Our point paper discusses alternatives to fundamentally treat the MEO as an “offeror.” As discussed, this may require changes in law, but will result in an increase in the appearance of fairness in terms of proposal development, evaluation, access to review, and implementation accountability.

(2) Clear rules

The current Revised Supplemental Handbook needs to be reissued to reflect all current changes from transmittals and potential changes from this panel. Rules are interpreted differently from organization to organization. **There must be a centralized source for interpretation of rules.** A centralized source could:

- Provide a consistent interpretation of Inherently Governmental functions
- Assist in “packaging” accountable activities, not FTE goals
- Provide tested examples of what GAO and OMB consider to be **true** performance-based service contracts
- Interpret acquisition and evaluation procedures appropriate for A-76, and
- Act as a reliable repository of information and statistics

A-76 is a major tool in government reform, and the government should **enforce rules and milestones and punish “malicious compliance.”**

(3) Consistent upper management support

We need to centralize the management and implementation of the A-76 program away from the officials “with the most to lose,” while maintaining field level participation and acceptance of the final decision. The implementation often suffers from management support that is distracted by “the next crisis,” and required decisions become untimely. At all levels, **we need less rhetoric and more dedication to fair and equitable implementation.** Our point paper provides a recommendation for an OMB approved “Help Desk” to assist in accomplishing this goal.

(4) Qualified acquisition office support

We **recommend the centralization of A-76 acquisitions** into specialty offices that can gain expertise in this program. The offices then need to be pushed to keep improving the acquisitions, not just become complacent with practices that worked once.

(5) Trained, qualified and available teams to conduct the cost comparisons

Most government personnel qualified to perform A-76 studies already have full-time jobs. The field is severely lacking in trained, qualified and available personnel to provide quality implementation. We recommend that the government certify a training curriculum. We also are recommending modifications to the RSH to specify skill sets required on each team.

(6) The flexibility to be professional in our craft

Provide flexibility in implementation. **The diversity of situations in the field dictates the need for flexibility.** This includes:

- The ability to propose case specific cost factors
- The ability to propose changes in scope to improve accountability and performance-based approaches
- The ability to request review of MEO decisions that seem unrealistic to the IRO
- Rights of discovery within a revised Administrative Appeal Process

With these six tools I have outlined, **a quality cost comparison can be completed in 12 to 18 months** (announcement to tentative decision) using performance-based acquisition techniques, with a realistic public sector proposal, and a fair comparison of costs, even given current government systems.

Our fundamental belief is that most rule changes since 1976 have not been based on fairness, but have been **reactions to poor implementation and lack of managerial and political will** to complete comparisons on time.

Thank you for this opportunity to address the panel. Those of us working in the field wish you well in this very important endeavor.

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Point papers and documents to be provided:

Treating the MEO as an "Offeror"
Recommended Cost Rule Changes
Improved Independent Review Board
Improved Administrative Appeal Board
Recommended Centralized Management Source (Help Desk)
Certification of Training
Evaluations of "A-76 Proposals"
Modified Revised Supplemental Handbook